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DSB ESTABLISHES PANEL ON U.S. SECTION 301 LAW

The WTO Dispute Settlement Body last week - responding to the second request by the EU, established a panel to determine whether the U.S.' Section 301 law violates international trade rules. Section 301 is a mechanism used by the U.S. Trade Representative to identify what it deems to be unfair trade practices faced by U.S. exporters and demand reform - backed by the threat of sanctions. The EU argues that the law violates international trade rules with respect to unilateral measures. (See Bridges Weekly Trade News Digest Vol. 3, No. 7, 22 February 1999.)

The EU made its first request for a Dispute Panel on Section 301 last month in the context of the ongoing dispute between the EU and U.S. over the EU banana import regime (see related story in this issue). A number of developing countries joined by Japan, Switzerland, and Canada last month also spoke out against unilateral measures expressing concern over the long-term institutional implications to the WTO of the "unilateralism" inherent in Section 301. Some WTO Members last week (including Colombia, St. Lucia, Ecuador and Cameroon, as well as Japan and India) expressed possible interest in joining the complaint as third parties.

Deputy U.S. Trade Ambassador Rita Hayes last week criticised the EU Panel request, saying the EU was motivated by a quest for retribution over the banana dispute and accused the EU of trying to divert attention away from the EU's failure to comply with WTO rules in that case. "Retribution should never be a reason for seeking the establishment of a panel -- but it is a particularly inappropriate motivation where it is used to hide the requesting Member's own failure to live up to its WTO obligations," Ms. Hayes said. The Dispute Settlement Panel will have six months to announce its findings.

"WTO agrees to set up Panel on U.S. 301 Trade Act," DOW JONES, 2 March 1999; "WTO Panel formed on US Super 301 legislation," AGENCE FRANCE-PRESSE, 2 March 1999; "USTR'S Hayes on WTO Panel examining Section 301 Law," USIA, 2 March 1999; "Trade: US '301' laws for WTO panel," SUNS, 2 March 1999; "OMC: le conflit de la banane rebondit" TRIBUNE DE GENEVE, 3 March 1999.

SAY CHEESE: US-EU IN FISTICUFFS OVER BANANAS

As BRIDGES Weekly Trade News Digest went to press, the WTO was to meet in an emergency session called by the EU in response to the U.S. decision last week to take steps toward trade retaliation against EU exports in the EU-U.S. dispute over the EU banana import regime. While the EU cannot force the U.S. to back down from its position, the EU is expected to seek broad condemnation for the unilateral measures when the WTO meets on 8 March.

In late January the two sides agreed to a temporary cease-fire in their trade battle, under which they agreed to allow a WTO arbitrator to determine the appropriate level of retaliatory sanctions the U.S. could impose against the EU for alleged EU non-compliance with a 1997 WTO Appellate Body decision against the EU's banana import regime. (See BRIDGES Weekly Trade News Digest Vol. 3, No. 4, 1 February 1999). The two sides however failed to agree on a timetable for concluding that arbitration. The U.S. argued that arbitration should be completed in 30 days (2 March). The EU argued that arbitration could not possibly be concluded until after the panel had concluded a parallel investigation on whether the EU has or not complied with the 1997 ruling (decision due on 12 April).

After the WTO arbitrator (in fact, a three-person panel) failed to deliver its verdict on 2 March on an appropriate level of retaliation that the U.S. could impose against the EU, the U.S. announced on 3 March that it would immediately suspend customs clearance for targeted EU products worth US\$520 million to be able to assess tariffs on these products at a later date. The U.S. announced that it would not begin collecting duties on the list of goods, but instead would require importers to post bonds for up to 100 percent of the value of these products. The U.S. list includes a diverse list of goods covering items such as Pecorino cheese and cashmere sweaters. The value of the list - US\$520 million, is what the U.S. estimates its banana marketers (e.g. Chiquita, Dole) lose each year because of the EU import regime favouring bananas from former African and Caribbean colonies.

"The U.S. has today decided to defy the WTO system by introducing a form of sanctions which has no WTO authorisation whatsoever," EU Trade Commissioner Sir Leon Brittan said in a 3 March statement. Commenting on the U.S. position, President Bill Clinton said the EU left the U.S. little choice but to retaliate. "We don't want to provoke a trade crisis, but we won," Mr. Clinton said last week.

The WTO arbitrator on 2 March did issue an initial decision which informed sources said agreed with the EU position that the panel could not decide on a level of retaliation until it had ruled on the issue of EU compliance. The arbitrator did ask the EU to justify its banana import regime while at the same time asking the U.S. for a revised damage assessment which sources said could be less than the US\$520 million targeted currently. The EU and US are to respond to the arbitrator's request by 15 March.

In related news, on 16 March the Dispute Settlement Body is to discuss the relationship between Articles 21 and 22 - which is at the heart of the current phase of the dispute over bananas - of the Dispute Settlement Understanding in the context of the review of the Understanding.

"WTO emergency meeting over bananas," FINANCIAL TIMES, 7 February 1999; "EU to seek WTO consultations over U.S. move against EU banana regime," INSIDE US TRADE, 5 March 1999; "Italian Cheese gets caught in Grinder of Banana Dispute," WALL STREET JOURNAL, 1 March 1999; "L'Europe gagne une manche contre Washington à l'OMC," LA TRIBUNE, 3 March 1999; "EU says U.S. sanctions unjustified," REUTERS, 2 March 1999; "EU warns US it risks "major" trade battle in banana feud," INTERNATIONAL HERALD TRIBUNE, 3 March 1999.

EU-U.S. BEEF DISPUTE CONTINUES TO SIMMER

EU and US officials last week were scheduled to meet again in an effort to resolve their dispute over an EU ban on hormone-treated beef imports. The WTO Appellate Body in February 1998 ruled that the EU ban on beef treated with growth hormones was not based on adequate scientific evidence and so violates international trade rules. The U.S. and Canada brought the complaint to the WTO, estimating that U.S. and Canadian farmers lose a combined US\$250 million a year from lost trade due to the ban. The EU has until 13 May to lift the ban or provide scientific justification for it. (See BRIDGES Weekly Trade News Digest Vol. 3, No. 4, 1 February 1999).

Little progress was expected in the talks, as the two sides remain fixated on opposing resolutions to the dispute. The U.S. was expected to continue to press the EU to lift the ban immediately and accept the U.S. offer to label beef exports with its country-of-origin as resolution. Sources said the EU was likely to press the U.S. to accept compensation for lost trade rather than lifting the ban. Further, the EU is opposed to any labelling scheme that does not include the mention of hormones.

GMO-labelling was one of three options the EU last month outlined for resolving the dispute. As a second option the EU said it could compensate the U.S. for lost trade, but the U.S. has consistently stated its opposition to this. As for the third option - to reclassify the ban as a "provisional measure" until the scientific evidence can be gathered to demonstrate the harm associated with hormone-treated beef, sources last week said that it is unlikely to gain the international support necessary for implementation. The lack of a mutually viable option in the short term could mean the U.S. would resort to retaliatory measures despite the desire on both sides to avoid another contentious trade battle. The EU has signalled that it is unlikely to be able to meet the 13 May deadline to comply with the WTO ruling.

Separately last week U.S. agriculture officials commented that the EU approval process for genetically modified organisms is confusing, based on questionable science and too often influenced by EU politics.

"Les Etats-unis somment l'Union de lever son interdiction d'importation avant le 13 mai," LIBERATION 3 March 1999; "EU Officials visit US to discuss resolution of WTO hormone dispute," INSIDE US TRADE 5 March 1999; "US warns over hormones dispute," FINANCIAL TIMES, 2 March 1999.

EU MINISTERS DIVIDED OVER GMO REGULATIONS

Divisions among EU ministers over how to revise the EU regulatory scheme for approving genetically modified organisms (GMOs) released into the environment have ostensibly forced the issue off the agenda for the 11-12 March meeting of the EU Council of Environment Ministers. It had been anticipated that Environmental Ministers would at that time discuss revisions to the EU's 1990 Directive on the Deliberate Release of Genetically Modified Organisms (90/220). However, divisions among EU member states over the proposed revisions have forced discussions out by at least six months.

There are two main points of disagreement between EU ministers: the length of time for which GMO marketing licences should be granted; and ethical aspects of approving new GMO crop strains. With respect to ethics, some member states led by Luxembourg and Austria want the right to refuse a new GMO licence on ethical grounds on a strain by strain basis. Other members argue that that approach would result in member-states rejecting GMO licences simply because a member state "does not like them," and would have serious repercussions on trade relationships.

EU governments must also reconcile differences between the European Commission's (EC) proposed revisions to 90/220 and amendments made to those revisions by the European Parliament (EP). The EC proposed that the authorisation for any GMO approved for release into the environment should be valid for seven years, and the EP passed an amendment extending the validity to 12 years. The EC is also at odds with EP proposals to make companies liable for any environmental damage caused by the release of a GMO into the environment.

U.S. observers expressed frustration with the pace of GMO decision-making in the EU, saying that the reluctance towards GMOs is less about science and more about EU consumers' mistrust toward government scientists and health safety agencies after the mad cow crisis. Other observers said the EU is hiding behind unjustified health and environmental safety concerns to maintain protectionist trade practices. U.S. trade officials warn that close to 100 percent of U.S. agricultural exports will have a GMO component in the near future and the EU must resolve its internal and external issues around GMO use now for its farmers to remain competitive and to avoid trade disputes.

"Efforts to revise law on GMOs founder; Germans drop issue from upcoming Council," INTERNATIONAL ENVIRONMENT REPORTER, 3 March 1999; "EU split delays overhaul of GMO policy," EIU NEWSWIRE, 4 March 1999, "Biotech issue strains US-EU ties," JOURNAL OF COMMERCE, 3 March 1999; "US laments European stance on biotech foods," REUTERS, 4 March 1999.

CARICOM FIRES WARNING SHOT AGAINST U.S. IN BANANA WAR

The Caribbean Community (Caricom) this past weekend (7 March) threatened to renege on a treaty to fight drug trafficking with the U.S. in retaliation for U.S. moves to impose trade sanctions against the EU in the U.S.-EU dispute over the EU banana import regime (see related story in this issue). Caricom leaders said they would reconsider trade and security pacts with the U.S. in light of U.S. unilateral actions in the dispute. Caricom officials said that by imposing unilateral sanctions on the EU the U.S. had undermined the essence of trade agreements between the U.S. and Caricom countries. "The U.S. has taken action not only to damage our bananas but to penalise Europe for not

taking action against our bananas," Edwin Carrington, Caricom's Secretary-General said. Many Caribbean countries rely heavily on banana exports to the EU as a source of revenue.

Caricom's statement follows criticisms made by Caribbean banana-exporting countries last week against the U.S. for its move to impose unilateral retaliatory sanctions against the EU. "Unilateral action by the U.S. which pre-empts a ruling by the WTO subverts the international trading system. Small nations will be particularly at risk, once major powers can decide unilaterally on penal action against other WTO members before the dispute settlement procedures have been exhausted," Caribbean countries said in a joint statement.

Jamaica charged both the EU and U.S. with undermining the WTO dispute settlement process to forward their own aims. "The two major trading superpowers should not use their trade weight to manipulate the procedures of the World Trade Organisation," said Jamaica's Ambassador to the WTO Anthony Hill. Mr. Hill said that the EU and U.S. procedural manoeuvring was jeopardising small countries' confidence in the WTO system.

"Caribbean threat to quit drugs treaty," FINANCIAL TIMES, 8 March 1999; "Jamaica hits US, EU for 'manipulation' of WTO rules," JOURNAL OF COMMERCE, 4 March 1999; "Caribbeans condemn U.S. in banana row," REUTERS, 4 March 1999.

U.K. OFFICIAL CALLS FOR DEVELOPMENT ROUND

Addressing the UN Conference on Trade and Development (UNCTAD) last week, Clare Short, U.K. Secretary of State for International Development called for the next round of global trade talks - commonly referred to the Millennium Round, to be dubbed the "Development Round."

The next round of trade talks, Ms. Short said, "provides an opportunity for the international community to concentrate its efforts not only on removing barriers to trade and investment, but also on how to improve the rules governing trade to ensure they meet the needs of all countries, especially the poorest. It is in all our interests that a new round is designed to bring clear benefits to developing countries - which make up a majority of WTO membership."

Ms. Short noted that the two major challenges facing the multilateral trading system were 1) that Uruguay Round Agreements have not yet been fully implemented (by developing or developed countries); and 2) many developing countries are still not able to participate fully in the multilateral trading system. Ms. Short suggested a Development Round agenda covering five key areas: agricultural liberalisation, rules of origin, government procurement, anti-dumping and industrial tariffs.

Ms. Short's proposal was received with some scepticism by developing country delegates, wary that it represented a mere repackaging of EU Trade Commissioner Sir Leon Brittan's marketing campaign for what the EU wants from a Millennium Round of trade talks. The EU is aggressively working to lessen resistance towards a comprehensive Millennium Round by many developing countries which remain sceptical about globalisation's benefits to the developing world and, further, want to ensure that developed countries fully implement Uruguay Round commitments before forging ahead with a new round. Observers noted that Ms. Short's proposal seemed to misunderstand or ignore developing countries' positions with respect to the Millennium Round.

Observers noted also that Ms. Short's proposals with respect to greater participation by WTO countries were naïve.

"Cool reception to UK's call for WTO "Development Round", IPS, 4 March 1999; "Trade: Call for a "Development Round", SUNS 2 February 1999; "TEXT: Future multilateral trade negotiations: a "development round?," 2 March 1999.

IMAGE PROBLEMS AT THE WTO

Venezuela last month urged WTO Members to support a campaign to shore up the image of the WTO, noting that the "negative institutional image of the WTO could have a negative impact on the organisation's credibility and future development." Venezuela noted that the WTO is perceived more and more - in developing countries in particular - as an impersonal and dogmatic bureaucracy relentlessly pursuing globalisation without regard to globalisation's negative or difficult impacts on Members' constituents. Venezuela proposed a two-pronged effort to improve the WTO's image. First, an extensive marketing campaign, including hiring corporate image consultants and providing a user-friendly lay-person's guide to the WTO via the WTO website. Second, launching an information campaign on the multilateral trading system focused towards key decision -makers in national legislatures or parliaments, business associations, consumer organisations and the media.

Addressing the image issue at a meeting of the WTO General Council last month, a few Members noted that the WTO should be concerned first with improving the WTO as an institution. "Before polishing your shoes, you should clean your face," Egypt's Ambassador to the WTO, Mounir Zahran said. A number of countries added that the WTO image problem did not stem from a lack of information about the WTO at the national or regional level, but from the real marginalisation of developing countries taking place under the current multilateral system. India noted that a good way for the WTO to improve its image would be to address the issue of equity within the WTO and WTO negotiations, taking into consideration the challenges faced by developing countries.

"Venezuela paper on WTO's institutional image," WT/GC/W/142, 1 February 1999; "Clean your face before polishing your shoes," SUNS, 18 February 1999.

IN BRIEF

The so-called D-8 group of developing Islamic countries met last week in Dhaka where members pledged greater economic co-operation and agreed to work together to address the challenges posed by trade globalisation. The D-8 called for a "balanced" agenda at the upcoming Third WTO Ministerial, urging the WTO to address issues of interest to both developed and developing countries. The D-8 is comprised of Turkey, Iran, Indonesia, Bangladesh, Egypt, Malaysia and Pakistan and Nigeria. "Islamic summit ends with vow to boost co-operation," REUTERS, 2 March 1999.

Rubens Ricupero last month received unanimous endorsement to continue for a second term as UNCTAD Secretary-General. Over the next four years Mr. Ricupero will carry out the UNCTAD agenda which includes UNCTAD's next quadrennial ministerial Conference, UNCTAD X, scheduled for February 2000, and Third UN Conference on the Least Developed Countries, to be held in the first half of 2001, as well as participating in the Third WTO Ministerial Conference

scheduled for later this year. "Secretary-General's appointment extended; Mr. Ricupero to lead UNCTAD into Twenty-First Century," UNCTAD PRESS RELEASE 19 February 1999.

A global set of guidelines for corporate sustainability reporting was to be launched last week. The so-called global reporting initiative (GRI) is a mechanism for comparing the environmental, social and economic performance of companies. Ceres, a U.S. based coalition promoting corporate responsibility, took the lead role in formulating the measurement tool, seeking input from a broad range of companies, NGOs, accountancy organisations, academics and governments. "Ceres green reporting guidelines launched," ENS, 3 March 1999.

WTO IN BRIEF

The WTO's Committee on Trade and Development met last week, and the Committee on Trade and Environment met late last month. BRIDGES Between Trade and Sustainable Development will report on these meetings in its March 1999 issue.

The EU last week signalled it would not back an U.S. plan to conclude a global tariff agreement covering eight sectors ahead of the Third WTO Ministerial set for November. The U.S. had hoped to conclude a multi-sector tariff agreement, work for which started at the Asia Pacific Economic Co-operation forum before being moved to the WTO. An EU official said last week that the tariff proposal would most likely be incorporated into Millennium Round talks. "EU raises flag on US-led efforts to remove tariffs," JOURNAL OF COMMERCE, 1 March 1999.

WTO Members 1 March put into force a financial services agreement concluded by Members in December 1997, liberalising trade in areas such as banking, insurance and securities. The deal covers 95 percent of global revenues in these sectors, subjecting activity in them to a set of global rules to be administered by the WTO. 52 of the 70 signatories to the agreement had ratified the accord by 15 February when members agreed that they had a critical mass to bring the agreement into force. WTO Members agreed to allow the 18 remaining members until 15 June to ratify the accord. "L'accord mondial sur les services financiers entre en vigueur," LA TRIBUNE, 1 March 1999.

EVENTS & RESOURCES

• EVENTS

For a more complete list of events in coming months, please refer to ICTSD's web calendar at: <http://www.ictsd.org/html/calendar.htm>

WTO Meetings

11 March: COMMITTEE ON MARKET ACCESS. For information contact Luis Ople, WTO, tel: (41-22) 739-5374.

16 March: DISPUTE SETTLEMENT BODY. Informal meeting on the Review of the Dispute Settlement Understanding. For information, contact Nuch Nazeer, WTO, tel: (41-22) 739-5393.

22-23 March: COUNCIL FOR TRADE IN SERVICES. For information contact Nuch Nazeer, as above.

24 and 26 March: GENERAL COUNCIL SPECIAL SESSION TO PREPARE FOR THE THIRD MINISTERIAL CONFERENCE. For information contact Nuch Nazeer, WTO, as above.

12-13 April: GENERAL COUNCIL SPECIAL SESSION ON THIRD MINISTERIAL CONFERENCE (INFORMAL MEETING). For information contact Nuch Nazeer, WTO, as above.

Other Events

15 March, Geneva: INFORMAL DIALOGUE BETWEEN KLAUS TOEPFER, EXECUTIVE DIRECTOR OF UNEP, AND NGOs. This dialogue will take place from 12.45 to 13.45 in room S4 of the main building of the Graduate Institute of International Studies, 132 rue de Lausanne (in the park by the WTO). For information, contact Miguel Jimenez-Pont, ICTSD, tel: (41-22) 917 8478, email: mjimenez@ictsd.ch

16 March, Geneva: THE SOCIAL DIMENSION IN INTERNATIONAL TRADE RULES - PROBLEMS AND PROSPECTS. This event, organised in collaboration with the Institute of International Workers' Education, will take place from 1.45 to 3.45 p.m. in room 2 of the Geneva Executive Centre, 13, chemin des Anémones, Châtelaine. Speakers: Carlos Lopez (Graduate Institute for International Studies) and Brewster Grace (Quaker United Nations Office). For information, contact Miguel Jimenez-Pont, ICTSD, as above.

16 March, Geneva: INTERNATIONAL TRADE AND SUSTAINABLE DEVELOPMENT IN THE FISHERIES SECTOR: COMPATIBILITY OR CONFLICT? (To be confirmed) If confirmed, this event will take place from 12.45 to 1.45 p.m. at Geneva Executive Centre, 13, chemin des Anémones, Chatelaine. For information, contact ICTSD, (41-22) 917-8492, or Miguel Jimenez-Pont, as above.

18-21 March 1999, Geneva: STRATEGY SESSION ON HOW TO STOP THE WTO "MILLENNIUM ROUND." For information, contact Olivier Hoedeman, Corporate Europe Observatory (CEO), tel/fax: (31-20) 618-0297, email: paxaran@antenna.nl

22-24 March, Geneva: UNCTAD EXPERT MEETING ON INTERNATIONAL INVESTMENT AGREEMENTS. For information contact Jo Elizabeth Butler, UN Conference on Trade and Development, Palais des Nations, 1211 Geneva 10, Switzerland, tel: (41-22) 907-0043, e-mail: jo.butler@unctad.org, web: <http://www.unctad.org>

19-30 April, New York: COMMISSION ON SUSTAINABLE DEVELOPMENT SEVENTH SESSION. At this session, the CSD will focus, inter alia, on consumption and production patterns, including recommendations for sustainable consumption for inclusion in the UN guidelines for consumer protection; tourism; and preparations for CSD-9 on issues related to energy. For information contact Zehra Aydin-Sipos, Division for Policy Co-ordination and ECOSOC Affairs, UN, New York, NY 10017, U.S., tel: (1-212) 963-8811, fax: 963-1267, e-mail: aydin@un.org, web: <http://www.un.org/dpcsd/dsd/>

4 May, Washington, DC: GLOBAL ENVIRONMENT FACILITY NGO CONSULTATION. For information contact GEF Secretariat, 1818 H Street NW, Washington D.C. 20433, U.S., tel: (1-202) 473-0508, fax: 522-3240 or 522 3245, web: <http://www.gefweb.org>

25-26 May, Geneva: IUED COLLOQUIUM: SUSTAINABLE TRADE: OPPORTUNITIES AND CHALLENGES. This conference will be hosted by Geneva's Graduate Institute of Development Studies, in partnership with E3 Funding and Technology and Le Temps. The event is aimed at anyone interested in sustainable trade, and--among others--aims to clarify emerging and alternative trade forms, their characteristics, components and actors; and to assess the chances for growth and contraction in the world trade system. For information contact E3, 14 avenue Trembley, 1209 Geneva, fax: (41-22) 734-5484, e-mail: colcomdurable@gve.ch, web: <http://www.unige.ch/iued/conference5.html>

- **RESOURCES**

JOURNAL OF INTERNATIONAL WILDLIFE LAW & POLICY. Recent issue contains articles on, inter alia, the GATT-WTO System: Environmental Friend or Foe?; WTO "Turtle" Decision; and OAU Draft Legislation on Access to Biological Resources and Community Rights. For information or to obtain a copy contact Wil Burns, Managing Editor, Journal of International Wildlife Law & Policy, 2124 Kittredge Street, Suite 805 Berkeley, CA 94704 USA, tel: (1-510) 317-0102, fax: 317-0654, e-mail: JIWLP@earthling.net, web: <http://www.kluwerlaw.com/cgi-bin/journal.pl>

EDUCATING POLICYMAKERS ON INTERNATIONAL INVESTMENT ISSUES: A NEW TOOL FROM UNCTAD. The first six "Issue Papers" of this series cover the following topics: Foreign Direct Investment and Development, Scope and Definition, Admission and Establishment, Most-Favoured-Nation Treatment, Investment-Related Trade Measures and Transfer Pricing. The underlying thrust of UNCTAD's work in the area is to maximise the developmental impact of FDI and of international investment agreements. For information contact Karl Sauvant, UNCTAD, tel: (41-22) 907-5707, fax: 907-0194, e-mail: karl.sauvant@unctad.org

ACP-EU TRADE AND AID COOPERATION: DURING AND AFTER LOME IV. By Matthew McQueen et al., University of Reading, for the Commonwealth Secretariat, 1998. As well as looking at the reasons for Lomé IV's limited success, the authors discuss how instruments of cooperation in the areas of trade, development finance and technical assistance could be designed and coordinated more effectively. Price: £6.00. To order contact Vale Packaging Ltd., 420 Vale Road, Tonbridge, Kent TN9 1TD, U.K., tel: (44-1732) 359-387, fax: 779-620, e-mail: vale@vale/ltd.co.uk

TRADE, INTELLECTUAL PROPERTY, FOOD AND BIODIVERSITY - KEY ISSUES AND OPTIONS FOR THE 1999 REVIEW OF ARTICLE 27.3(b) OF THE TRIPS AGREEMENT. By Geoff Tansey for Quaker Peace & Service, London. This report, intended primarily for developing country policy-makers, seeks to discuss issues arising in the context of the 1999 review of the WTO TRIPs Agreement in a balanced way. Available on the web at: <http://www.quaker.org/quno/TRIPspaper.html> To order a hard copy, contact Quaker UN Office, 13, ave. du Mervelet, 1209 Geneva, tel: (41-22) 748 4800, fax: 748 4819. French-language version available soon.

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